

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUN 19 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NORTHERN PLAINS RESOURCE
COUNCIL,

Plaintiff - Appellant,

v.

WBI HOLDINGS,

Defendant,

and

FIDELITY EXPLORATION AND
PRODUCTION COMPANY,

Defendant - Appellee.

No. 05-36149

D.C. No. CV-00-00105-SEH

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Montana
Sam E. Haddon, District Judge, Presiding

Submitted June 15, 2006^{**}

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Before: REINHARDT, W. FLETCHER, and GOULD, Circuit Judges.

Northern Plains Resource Council appeals the district court's imposition, under its inherent powers, of sanctions in the amount of \$2,209.50. We vacate the order imposing sanctions.

The district court failed to make a specific finding that Northern Plains acted in bad faith in failing to comply completely with the terms of two protective orders. A specific finding of bad faith is required to support a court's imposition of sanctions pursuant to its inherent powers. *See Roadway Express, Inc. v. Piper*, 447 U.S. 752, 767 (1980); *United States v. Stoneberger*, 805 F.2d 1391, 1393 (9th Cir. 1986). Further, there is no evidence in the record that Northern Plains acted in bad faith; "bad faith" requires that the conduct be willful or reckless with an improper motive. *See Fink v. Gomez*, 239 F.3d 989, 993-94 (9th Cir. 2001).

Accordingly, the order imposing sanctions is VACATED.